

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: PRARIEWAVE COMMUNICATIONS, INC.	DOCKET NOS. TCU-02-7 TF-02-261 TF-02-262 WRU-02-19-3644 TCU-97-31
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**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,
GRANTING WAIVERS, APPROVING TARIFF, ISSUING CERTIFICATE, AND
WITHDRAWING APPROVED APPLICATION**

(Issued July 24, 2002)

On June 12, 2002, PrairieWave Communications, Inc. (PrairieWave), filed with the Utilities Board (Board) an application for issuance of a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2001), stating its intention to provide local exchange telecommunications service in the Storm Lake, Iowa, exchange currently served by Qwest Corporation (Qwest). The application has been identified as Docket No. TCU-02-7. PrairieWave has provided the qualifications of its company officers and financial statements and has stated it will support a 2-PIC methodology for dialing parity.

PrairieWave also states that McLeodUSA Telecommunications Services, Inc. (McLeodUSA), currently provides competitive local exchange services in the Storm Lake exchange. According to PrairieWave, McLeodUSA's facilities-based network in Storm Lake, Iowa, plus additional facilities-based networks in South Dakota and Minnesota, are to be acquired by PrairieWave under a stock purchase agreement.

McLeodUSA customers served by the Storm Lake facilities-based network are to be transferred to PrairieWave. Affected customers will be provided notice at least 30 days prior to the transfer.

Also on June 12, 2002, PrairieWave filed proposed local exchange tariffs with the Board stating the terms, conditions, and rates for local exchange service in the Storm Lake, Iowa, exchange. The proposed tariffs have been identified as Docket Nos. TF-02-261 and TF-02-262.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Utilities Board (Board) finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest."

The Board has reviewed PrairieWave's application and finds the necessary technical, financial, and managerial abilities to provide local exchange service has been demonstrated. The Board finds it is consistent with the public interest to approve the application.

PrairieWave also states that its service area will mirror the service area maps of Qwest for the identified exchanges, as they are currently filed and as they may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have on file with the Board maps which show exchange boundaries. The Board finds

that PrairieWave has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest.

PrairieWave has requested the Board waive the requirements of 199 IAC 16.5(2), 18.2, 22.3(1), and 22.23. The waiver requests have been identified as Docket No. WRU-02-19-3644.

PrairieWave requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. PrairieWave states that it employs an accounting system in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance GAAP accounting are acceptable for a competitive local exchange service provider.

PrairieWave had requested that the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based on PrairieWave's statement that it will make the records available to the Board upon request.

PrairieWave also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon PrairieWave's statement that it will arrange for its customers to be included in the directories published by Qwest in the areas it provides local exchange service.

PrairieWave also requests a waiver of 199 IAC 22.23, which prohibits unauthorized changes in telephone service. Specifically, 199 IAC 22.23(2) requires carriers to obtain customer authorization prior to changing a customer's service provider. As previously noted, PrairieWave states that customers to be transferred

from McLeodUSA's service to PrairieWave's service will be provided notice at least 30 days prior to the change in service and will be given the opportunity to change service providers. PrairieWave has also stated that that there will not be a change in the rates, terms, and conditions of services provided to McLeodUSA's customers.

To grant these waivers, the Board must find, based upon clear and convincing evidence, that the requests meet the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning business in Iowa. It would be a hardship on PrairieWave because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that substantially equal protection for the public health, safety, and welfare will be provided because the actions required by the rules being waived will be completed under different circumstances.

The Board has reviewed the proposed tariffs filed on June 12, 2002, and finds that they substantially comply with Board rules for the filing and processing of tariff pages. The tariffs contain rates for both business and residential customers. Notice

has been provided to all affected carriers. The Board will approve the tariffs effective the date of this order and issue PrairieWave a certificate of public convenience and necessity concurrent with this order.

Finally, PrairieWave states that the South Dakota and Minnesota entities which are now associated with PrairieWave previously filed an application for a certificate of public convenience and necessity under the name of DTG Communications, Inc. (DTG). In an order issued November 6, 1997, in Docket No. TCU-97-31, the Board granted DTG's application. Subsequent to the issuance of the order, McLeodUSA acquired DTG and DTG never completed the application process. DTG does not have an approved tariff on file with the Board, nor has a certificate been issued to DTG following the Board's November 6, 1997, order. Therefore, PrairieWave requests the withdrawal of DTG's approved application.

The Board has considered PrairieWave's request to withdraw DTG's application and finds that it is reasonable. DTG has been acquired by McLeodUSA, which in turn has been acquired by PrairieWave. DTG has not established local service in Iowa nor does DTG have any Iowa customers who would be affected by its withdrawal.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by PrairieWave Communications, Inc., on June 12, 2002, is granted.
2. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation is approved.

3. The waiver of 199 IAC 16.5(2), 18.2, 22.3(1), and 22.23(2), identified as Docket No. WRU-02-19-3644, is granted as described in this order.

4. The tariffs filed by PrairieWave Communications, Inc., on June 12, 2002, identified as Docket Nos. TF-02-261 and TF-02-262, are approved effective the date of this order.

5. A certificate identified as Certificate No. 0252 is being issued to PrairieWave Communications, Inc., concurrent with this order.

6. The request of PrairieWave Communications, Inc., to withdraw DTG Communications Inc.'s approved application for a certificate of public convenience and necessity to provide local exchange service in Iowa identified as Docket No. TCU-97-31 is approved.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 24th day of July, 2002.